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TRAINING AND TECHNICAL ASSISTANCE

Note by the Secretariat

CONTENTS

		Paragraphs	Page
INTRODUCTION		1-2	2
I.	TRENDS IN TRAINING AND TECHNICAL ASSISTANCE	3-4	2
II.	TECHNICAL ASSISTANCE TO STATES IN PREPARATION AND IMPLEMENTATION OF LEGISLATION	5-8	3
III.	UNCITRAL SEMINARS AND BRIEFING MISSIONS	9-12	4
IV.	OTHER SEMINARS, CONFERENCES, COURSES AND WORKSHOPS	13-14	5
V.	INTERNSHIP PROGRAMME	15-16	7
VI.	FUTURE ACTIVITIES	17-18	7
VII.	FINANCING PROGRAMME IMPLEMENTATION	19-24	8

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INTRODUCTION

1. Pursuant to the decision taken at the twentieth session of the Commission (1987), training and assistance activities count among the high priorities of UNCITRAL.1/ The training and technical assistance programme carried out by the secretariat under the mandate given by the Commission, particularly in developing countries and in countries whose economic systems are in transition, encompasses two main lines of activity: (a) information activities aimed at promoting the knowledge of international commercial law conventions, model laws and other legal texts; and (b) assisting Member States in their efforts towards commercial law reform and towards the adoption of UNCITRAL texts.

2. This note sets out the activities of the secretariat subsequent to the twenty-ninth session of the Commission (28 May-14 June 1996) and discusses possible future training and technical assistance activities in the light of the trends in the demand for such services from the secretariat.

I. TRENDS IN TRAINING AND TECHNICAL ASSISTANCE

3. There is a continuing and significant increase in the importance being attributed by Governments, domestic and international business communities and multilateral and bilateral aid agencies to the improvement of the legal framework for international trade and investment. UNCITRAL has an important function to play in this process because it has produced and promotes the use of legal instruments in a number of key areas of commercial law which represent internationally agreed standards and solutions acceptable to different legal systems. Those instruments include:

(a) in the area of sales, the United Nations Convention on Contracts for the International Sale of Goods and the United Nations Convention on the Limitation Period in the International Sale of Goods;

(b) in the area of dispute resolution, the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958) (a United Nations convention adopted prior to the establishment of the Commission, but actively promoted by it), the UNCITRAL Arbitration Rules, the UNCITRAL Conciliation Rules, the UNCITRAL Model Law on International Commercial Arbitration and the UNCITRAL Notes on Organizing Arbitral Proceedings;

(c) in the area of procurement, the UNCITRAL Model Law on Procurement of Goods, Construction and Services;

(d) in the area of banking and payments, the United Nations Convention on Independent Guarantees and Stand-by Letters of Credit, the UNCITRAL Model Law on International Credit Transfers and the United Nations Convention on International Bills of Exchange and International Promissory Notes; and

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1/ Report of the United Nations Commission on International Trade Law on the work of its twentieth session, Official Records of the General Assembly, Forty-second Session, Supplement No. 17 (A/42/17), para. 335.

(e) in the area of transport, the United Nations Convention on the Carriage of Goods by Sea, 1978 (Hamburg Rules) and the United Nations Convention on the Liability of Operators of Transport Terminals in International Trade.

4. The upsurge in commercial law reform represents a significant and crucial opportunity for UNCITRAL to significantly further the objectives of substantial coordination and acceleration of the process of harmonization and unification of international trade law, as envisaged by General Assembly resolution 2205 (XXI) of 17 December 1966.

II. TECHNICAL ASSISTANCE TO STATES IN PREPARATION AND IMPLEMENTATION OF LEGISLATION

5. Technical assistance is provided to States preparing legislation based on UNCITRAL legal texts. Such assistance is provided in various forms, including review of preparatory drafts of legislation from the viewpoint of UNCITRAL legal texts, technical consultancy services and assistance in the preparation of legislation based on UNCITRAL legal texts, preparation of regulations implementing such legislation, comments on reports of law reform commissions as well as briefings for legislators, judges, arbitrators, procurement officials and other users of UNCITRAL legal texts embodied in national legislation. Another form of technical assistance provided by the secretariat consists in advising on the establishment of institutional arrangements for international commercial arbitration, including training seminars for arbitrators, judges and practitioners in this area.

6. With a view to maximizing the benefit that recipient countries derive from UNCITRAL technical assistance, the secretariat has taken steps towards increasing cooperation and coordination with development assistance agencies. Cooperation and coordination among entities providing legal technical assistance has the desirable effect of ensuring that, when United Nations system entities or outside entities are involved in providing legal technical assistance, the legal texts prepared by the Commission and recommended by the General Assembly to be considered are in fact so considered and used. The secretariat is continuing its efforts in this regard.

7. From the standpoint of recipient States, UNCITRAL technical assistance is beneficial in view of the secretariat's accumulated experience in the preparation of UNCITRAL legal texts. It helps establish legal systems that not only are internally consistent, but also utilizes internationally developed trade law conventions, model laws and other legal texts. The resulting legal harmonization maximizes the ability of business parties from different States to successfully plan and implement commercial transactions.

8. States that are in the process of revising or reforming their trade legislation may wish to contact the UNCITRAL secretariat in order to obtain technical assistance and advice.

III. UNCITRAL SEMINARS AND BRIEFING MISSIONS

9. The information activities of UNCITRAL are typically carried out through seminars and briefing missions for Government officials from interested ministries (such as trade, foreign affairs, justice and transport), judges, arbitrators, practising lawyers, the commercial and trading community, scholars and other interested individuals. Seminars and briefing missions are designed to explain the salient features and utility of international trade law instruments of UNCITRAL. Information is also provided on certain important legal texts of other organizations (e.g., Uniform Customs and Practice for Documentary Credits and INCOTERMS (International Chamber of Commerce); Factoring Convention (International Institute

for the Unification of Private Law (UNIDROIT)). Typically, all briefing missions as well as one-day seminars are carried out by only one member of the secretariat.

10. Since the previous session, the secretariat organized seminars in a number of States. Lectures at UNCITRAL seminars are generally given by one or two members of the secretariat, experts from the host countries and, occasionally, external consultants. After the seminars, the UNCITRAL secretariat remains in contact with seminar participants in order to provide the host countries with the maximum possible support during the process leading up to the adoption and use of UNCITRAL legal texts.

11. The following seminars and briefing missions were financed with resources from the Trust Fund for UNCITRAL Symposia:

- Bridgetown, Barbados (23-26 April 1996), regional seminar held in cooperation with the Caribbean Community (CARICOM); attended by approximately 55 participants (in addition, the travel costs of twenty-three participants from CARICOM Member States was paid from the Trust Fund);

- Hanoi, Vietnam (31 August 1996), briefing of 25 officials of the Ministry of Justice;

- Vientiane, Lao People's Democratic Republic (3-6 September 1996), seminar and briefing mission held in cooperation with the Government of Lao P.D.R.; attended by approximately 150 participants;

- Bangkok, Thailand, (9-10 September 1996), briefing mission held in cooperation with the Government of Thailand; attended by approximately 25 participants;

- Cairo, Egypt, (2-5 December 1996), regional seminar held in cooperation with the League of Arab States; attended by approximately 100 participants; and

- Pretoria, South Africa, (3-4 March 1997), seminar held in cooperation with the Department of Foreign Affairs' International Legal Division; attended by approximately 30 participants.

12. The following seminars and briefing missions were financed by the institution organizing the event or by another organization:

- Kuala Lumpur, Malaysia, (5-6 November 1996), arbitration seminar held in cooperation with the Malaysian Institute of Arbitrators and the Kuala Lumpur Regional Centre for Arbitration; attended by approximately 100 participants.

IV. OTHER SEMINARS, CONFERENCES, COURSES AND WORKSHOPS

13. Members of the UNCITRAL secretariat have participated as speakers in various seminars, conferences and courses, where UNCITRAL legal texts were presented for examination and discussion or for the purposes of coordination of activities. The participation of members of the secretariat in the seminars, conferences and courses listed below was financed by the institution organizing the events or by another organization:

- Meeting of Law Ministers of the Commonwealth Nations sponsored by the Commonwealth Secretariat (Kuala Lumpur, Malaysia, 16 - 17 April 1996);

- International Trade Law Post-Graduate Course sponsored by the International Training Centre of the International Labour Organization (ILO) and the University Institute of European Studies (Turin, Italy, 22 April 1996);

- Banking Law Seminar sponsored by the British Centre for English and European Legal Studies at Warsaw University, Faculty of Law and Administration (Warsaw, Poland, 6 - 9 May 1996);

- International Credit Insurance Association (ICIA) Business School Seminar on "Independent/Demand Guarantees, Standby Letters of Credit, Performance and Contract Bonds" (Flims-Waldhaus, Switzerland, 24 - 27 September 1996);

- Meeting of the U.S. Study Group on Standby Practices sponsored by the Institute of International Banking Law and Practice (New York, United States of America, 25 - 29 September 1996);

- "Doing Business Securely on the Information Highway" Conference sponsored by the EDI World Institute (Montreal, Canada, 30 September - 1 October 1996);

- International Special Fellowship Course on Arbitration sponsored by the Chartered Institute of Arbitrators (Berlin, Germany, 18 - 20 October 1996);

- "International BOT Contracts - Legal Aspects and Peaceful Means for Settling Relevant Disputes" Conference sponsored by the Cairo Regional Centre for International Commercial Arbitration (Hurghada, Egypt, 21 - 24 October 1996);

- International Entry and Special Fellowship Courses on Arbitration sponsored by the Chartered Institute of Arbitrators (Singapore, 1 - 3 November and 8 - 9 November 1996);

- Law Course #13 sponsored by the International Development Law Institute (Rome, Italy, 6 November 1996);

- Promotion of Guarantee and Standby Convention Briefings sponsored by the U.S. Council on International Banking and Citibank (Tokyo, Japan, 11 November 1996; Beijing, China, 13 November 1996; Hong Kong, 15 November 1996; and Singapore, 18 November 1996);

- International Special Fellowship Course on Arbitration sponsored by the Chartered Institute of Arbitrators (Edinburg, Scotland, 22 - 24 November 1996);

- Lecture on work of UNCITRAL sponsored by the Institut des Hautes Etudes Internationales (Geneva, Switzerland, 5 February 1997); and

- National Seminar on the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement); and Resolution of Commercial Disputes Involving Intellectual Property sponsored by the World Intellectual Property Organization (WIPO) (Manama, Bahrain, 22 - 23 February 1997).

14. The participation of members of the UNCITRAL secretariat as speakers in the conferences listed below was financed with resources from the Trust Fund for UNCITRAL Symposia and from the United Nations regular travel budget:

- "Commercial Dispute Resolution in Central and Eastern Europe" Conference sponsored by the International Development Law Institute (IDLI), European Bank for Reconstruction and Development (EBRD) and the Central European Initiative (CEI) (Trieste, Italy, 28 - 29 June 1996);

- "Legal Development in a Socialist-Oriented Market Economy" Conference sponsored by the Governments of Australia and Vietnam, Ministry of Justice, Hanoi and AILEC (Hanoi, Vietnam, 28 - 30 August 1996);

- International Council for Commercial Arbitration (ICCA) Seoul Conference 1996 and Council Meeting sponsored by ICCA (Seoul, Korea, 9 - 13 October 1996);

- Annual Conference of the Commercial Finance Association (Chicago, Illinois, United States, 14 - 16 October 1996);

- 26th Biennial Conference sponsored by the International Bar Association (Berlin, Germany, 20 - 25 October 1996);

- International Council for Commercial Arbitration (ICCA) Meeting of Programme Committee (Paris, France, 20 December 1996);

- Meeting of the Study Group for the Preparation of Uniform Rules on International Interests in Mobile Equipment sponsored by the International Institute for the Unification of Private Law (UNIDROIT) (Rome, Italy, 15 - 17 and 20 - 21 January 1997);

- Symposium on the Harmonization of Commercial Law: Coordination and Collaboration sponsored by the International Chamber of Commerce (ICC) (Rome, Italy, 18 January 1997); and

- "The Resolution of Trade and Investment Disputes in Africa" Conference sponsored by the Association of Arbitrators (Southern Africa) (Johannesburg, South Africa, 5 - 8 March 1997).

V. INTERNSHIP PROGRAMME

15. The internship programme is designed to give young lawyers the opportunity to become familiar with the work of UNCITRAL and to increase their knowledge of specific areas in the field of international trade law. During the past year, the secretariat has hosted 8 interns from Canada, France, Germany, Spain, the United Kingdom and the United States of America. Interns are assigned tasks such as basic or advanced research, collection and systematization of information and materials or assistance in preparing background papers. The experience of UNCITRAL with the internship programme has been positive. As no funds are available to the secretariat to assist interns to cover their travel or other expenses, interns are often sponsored by an organization, university, Government agency or they meet their expenses from their own means. The Commission may wish, in this connection, to invite Member States, universities and other organizations, in addition to those that already do so, to consider sponsoring the participation of young lawyers in the United Nations internship programme with UNCITRAL.

16. In addition, the secretariat occasionally accommodates requests by scholars and legal practitioners who wish to conduct research in the Branch and in the UNCITRAL Law Library for a limited period of time.

VI. FUTURE ACTIVITIES

17. For the remainder of 1997, seminars and legal-assistance briefing missions are being planned in Africa, Asia, Latin America and Eastern Europe. Since the costs of training and technical assistance activities is not covered by the regular budget, the ability of the secretariat to implement these plans is contingent upon the receipt of sufficient funds in the form of contributions to the Trust Fund for UNCITRAL Symposia.

18. As it has done in recent years, the secretariat has agreed to co-sponsor the next three-month International Trade Law Post-Graduate Course to be organized by the University Institute of European Studies and the International Training Centre of the International Labour Organization in Turin. Typically, approximately half of the participants are drawn from Italy, with many of the remainder being drawn from developing countries. This year's contribution from the UNCITRAL secretariat will focus on issues of harmonization of laws on international trade law from the perspective of UNCITRAL, including past and current work.

VII. FINANCING PROGRAMME IMPLEMENTATION

19. The secretariat continues its efforts to devise a more extensive training and technical assistance programme to meet the considerably greater demand from States for training and assistance in keeping with the call of the Commission at the twentieth session (1987) for an increased emphasis both on training and assistance and on the promotion of the legal texts prepared by the Commission. However, as no funds for the travel expenses of lecturers or participants are provided for in the regular budget, expenses for UNCITRAL training and technical assistance activities (except for those that are funded by funding agencies such as the World Bank) have to be met by voluntary contributions to the Trust Fund for UNCITRAL Symposia.

20. Given the importance of extra-budgetary funding for the implementation of the training and technical assistance component of the UNCITRAL work programme, the Commission may again wish to appeal to all States, international organizations and other interested entities to consider making contributions to the Trust Fund for UNCITRAL Symposia, particularly in the form of multi-year contributions, so as to facilitate planning and enable the secretariat to meet the increasing demands in developing countries and newly independent States for training and assistance. The secretariat can be contacted for information on how to make contributions.

21. In the period under review, a contribution from Switzerland was made for the seminar programme. The Commission may wish to express its appreciation to those States and organizations that have contributed to the Commission's programme of training and assistance by providing funds or staff or by hosting seminars.

22. In this connection, the Commission may wish to recall that, in accordance with General Assembly Resolution 48/32 of 9 December 1993, the Secretary-General was requested to establish a Trust Fund for granting travel assistance to developing States Members of the United Nations Commission on International Trade Law. The Trust Fund so established is open to voluntary financial contributions from States, inter-governmental organizations, regional economic integration organizations, national institutions and non-governmental organizations as well as natural and juridical persons.

23. At its previous session, the Commission noted that the General Assembly had not had the opportunity, during its fiftieth session, to consider the request that had been made by the Commission at its twenty-eighth session that the UNCITRAL Trust Fund for Symposia be placed on the agenda of the pledging conference taking place within the framework of the General Assembly session, on the understanding that that would not have any effect on the obligation of a State to pay its assessed contribution to the Organization. Accordingly, the Commission requested that the Sixth Committee recommend to the General Assembly the adoption of a resolution including the UNCITRAL Trust Fund for Symposia and the Trust Fund for Granting Travel Assistance to Developing States Members of UNCITRAL on the agenda of the United Nations Pledging Conference for Development Activities (A/51/17, para. 254).

24. In operative paragraph 11 of Resolution 51/161 of 16 December 1996, the General Assembly decided to include the Trust Funds for Symposia and Travel Assistance in the list of funds and programmes that are to be dealt with at the United Nations Pledging Conference for Development Activities.

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